

REMARKS

Claims 1-17 are pending, as originally filed. None of the claims have been amended.

Interview

The acknowledgment and appreciation of the Applicant is herein reiterated for the grant of the second telephonic interview between Applicant's representative, John Young, and the Examiner, conducted on October 30, 2007. During the second telephonic interview, the Examiner agreed to look more closely at how the recitation of "dropping the computer off line" (claim 1, line 14) differs from dropping the line as taught in the applied art.

Rejections under 35 U.S.C. § 103 (a)

Claims 1-17 were rejected under 35 U.S.C. § 103 (a) as unpatentable over the single reference to Fuller (US 4,893,335) (hereafter "Fuller") in the non-final Office Action mailed February 26, 2008 (hereafter the "Office Action"). The rejections of claims 1-17 are respectfully traversed for at least the following reasons.

Claim 1 recites a method for making a telephone call connection. The method comprises, in pertinent part: "in response to the destination number being answered, dropping the computer off line, thereby enabling the caller to communicate with the destination number" (claim 1, lines 13-15). On pages 2-3 of the Office Action, this recitation was misquoted as follows: "in response to the destination number being answered, **dropping the line** (reads on the central office terminating the call. . .)" (Office Action, page 2, last two lines to page 3, line 1, emphasis added). Thus, according to the Office Action, dropping the line, on its face, means terminating the call, as in disconnecting the line, i.e. deenergizing the off hook mode, thus ending the call.

In contrast to ending the call, the recitation of "**dropping the computer off line, thereby enabling the caller to communicate with the destination number**" (claim 1, lines 14-15, emphasis added) is different from "terminating the call" as admitted on page 3 of the Office Action, because enabling the caller to communicate means the call is connected and not ended. Furthermore, "**dropping the line**" (as described on page 3 of the Office Action) is different from "**dropping the computer off line**" (as recited in claim 1, line 14, emphasis added), because "dropping the computer off line" (as recited in claim 1) is described in the

original specification as upon "entry of the destination number, which may be concluded by a time-out delay or the entry of a control key such as the "#" key for example, the application software invokes an outbound call to the destination number, and in response to the destination number being answered, **the application software drops the computer off line, thereby enabling the caller to communicate with the destination number** via the home plan at the home plan rate" (specification, page 8, paragraph [0016] last 6 lines, emphasis added). Therefore, the reference to Fuller describes dropping the line, which was admitted to mean terminating the call. In contrast to terminating the call, claim 1 recites dropping "the computer off line, thereby enabling the caller to communicate with the destination number" (claim 1, lines 14-15). Thus, "terminating the call" is different from "enabling the caller to communicate with the destination number" as recited in claim 1, because terminating the call ends the call and enabling the caller to communicate, maintains and/or continues the call. For at least these reasons, claim 1 distinguishes over the reference to Fuller and is allowable.

Because Fuller fails to disclose or suggest the features of claim 1 noted above, claim 1 is considered allowable over Fuller.

Traversal of Common Knowledge Rejection of claim 1 Under 35 U.S.C. § 103 (a)

Claim 1 further recites "prompting the caller with a first service announcement" (claim 1, line 5). Further, claim 1 recites "prompting the caller to enter a personal identification number" (claim 1, lines 7-8).

It was admitted in the Office Action that "Fuller does not specifically teach the caller will be prompted with first and second announcement[s]. And this announcement will specifically prompt the caller to enter his personal identification number as recited in claim 1" (Office Action, page 3, lines 5-7).

Subsequently, it was alleged in the Office Action, that "it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an announcement programmed to address and ask the caller specific questions and requests. Obviously, announcements should be programmed based on the need and desire in order to expedite the handling of the processing and establishing calls" (Office Action, page 3, lines 8-12).

The Applicant respectfully traverses the allegations of obviousness and demands the Examiner produce documentary authority for the conclusions of obviousness, because in the rejection, it appears that the Examiner relied on either common knowledge and/or personal knowledge, i.e., in a manner similar to an Official Notice rejection.

Therefore, because there is no evidence supporting the Examiner's conclusions of obviousness, the Examiner is required under MPEP § 2144.03(B) and/or under 37 CFR § 1.104(d)(2) to support such conclusions of obviousness with documentary evidence in the form of either a reference and/or an affidavit when called for by the Applicant. Thus, the Applicant herein calls upon the Examiner to support the above-described conclusions of obviousness with either a patent or non-patent reference and/or an affidavit.

Absent such supporting evidence, the Examiner's burden of proof with regard to obviousness has not been met and claim 1 is considered allowable for these additional reasons.

Traversal of Inherency Rejection of claim 1 Under 35 U.S.C. § 103 (a)

In addition, claim 1 recites "validating the personal identification number and prompting the caller with a second service announcement" (claim 1, lines 9-10). At issue on page 2 of the Office Action, it was alleged that the "feature of 'validating the personal identification number' is inherent" (Office Action, page 2, lines 20-21).

It is well settled in law as provided in the MPEP that in "relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied . . . art." Ex parte Levy, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990)" (MPEP 2112 Requirements of Rejection Based on Inherency; Burden of Proof [R-3] - 2100 Patentability, Section IV, lines 16-18).

Upon further analysis of the allegation of inherency in the Office Action, there was neither a provision based in fact nor a provision of technical reasoning to reasonably support the determination that the allegedly inherent characteristic of "validating the personal identification number" (as recited in claim 1) necessarily flows from the teaching of the

applied art. Thus, the burden of proof of inherency has not been met and for at least this additional reason, claim 1 is allowable.

Nothing was cited or found in Fuller that teaches or suggests each recitation included in claim 1. Thus, for all of the above reasons claim 1 is allowable.

Independent claims 10 and 14 recite "disconnecting the processing circuit from the call" and "disconnecting the computer from the call" respectively and "enabling the caller to communicate with the destination number via the home plan at the home plan rate" in a manner similar to claim 1. Thus, claims 10 and 14 distinguish over the reference to Fuller for the reasons discussed in regard to claim 1.

Dependent claims 2-9, 11-13 and 14-17 depend from claims 1, 10 and 14 respectively. Thus, claims 2-9, 11-13, and 14-17 are considered allowable over Fuller for at least the reasons discussed above in regard to claim 1.

In addition, it was asserted in the Office Action that claim 3 was rejected because it was "obvious and well known in the art" (Office Action, page 4, lines 3-5). The Applicant respectfully traverses this statement and demands that documentary evidence (i.e., either a patent or non-patent reference or an affidavit from the Examiner) be produced in support of the "obviousness and well known in the art" assertion. Absent such a showing of evidence, the burden of proof by the Examiner has not been met. Thus, for at least these additional reasons, claim 3 is allowable.

In addition, in regard to claim 4, it was alleged in the Office Action that "Fuller teaches the feature of conference call[sic] (see col. 8, lines 13-39)" (Office Action, page 4, line 12).

Claim 4 recites in part: **"in response to the caller replying to the second service announcement and entering a plurality of conference call telephone numbers to be called, invoking a conference call between the computer, the caller, and each of the plurality of telephone numbers, and in response to the conference call connections being made or terminated, dropping the computer off line, thereby enabling the caller to communicate with the plurality of telephone numbers via the home plan at the home plan rate"** (claim

4, lines 2-8, emphasis added). Thus, not only does claim 4 recite conference call recitations, but, also, claim 4 recites "announcement" and "dropping the computer off line" recitations, which distinguish over the reference to Fuller for the reasons discussed in regard to claim 1.

What was cited in Fuller (as allegedly showing the recitations of claim 4) recites: "In order to understand the conferencing mode, one must understand the "three-way calling" capability commonly provided by conventional telephone service. In conventional telephone service, one may join a third party in an existing telephone conversation by flashing the hook switch to hold and obtain a dial tone. The telephone number of the third party is then dialed. After the third party answers the hookswitch is once again flashed, thereby connecting all three parties to each other" (Fuller, column 8, lines 14-23). Therefore, what was cited in Fuller to allegedly show the recitations of claim 4 is different from claim 4, because what was cited in Fuller is silent as to any **"response to the caller replying to the second service announcement and . . . dropping the computer off line, thereby enabling the caller to communicate with the plurality of telephone numbers via the home plan at the home plan rate"** (claim 4, line 2 and lines 6-8, emphasis added). Thus, for at least these additional reasons claim 4 distinguishes over the reference to Fuller.

In addition, in regard to claim 5, it was alleged in the Office Action that "Fuller teaches the use of a call forward[sic] (see col. 9, lines 36-68)" (Office Action, page 4, line 16).

Claim 5 recites **"in response to the caller replying to the first service announcement and entering a call-forward command and a call-forward telephone number, redirecting all calls received at the computer** to the call-forward telephone number" (claim 5, lines 2-4). One of the call forwarding recitations in claim 5 includes responding to a "first service announcement".

What was cited in Fuller (as allegedly showing the recitations of claim 5) recites:

The control system 10 utilizes the three-way calling capability of the telephone service central office in a new and different manner to perform a simulated call forwarding. In the simulated call forwarding mode, an outside call to the local station 12 is automatically routed to an external station. The ringing of the incoming call is detected by the

ring detector 33 thereby causing the CPU 34 to energize the off hook relay 36 to answer the incoming call. The CPU 34 then momentarily deenergizes the off hook relay 36 to flash the central office thereby placing the incoming call on temporary hold. The CPU 34 then dials the call forwarding number either through the dial pulse generator 50 or the dual tone multifrequency generator 52. The CPU 34 then once again momentarily deenergizes the off hook relay 36 to release the held incoming call thereby connecting the incoming call to the call forwarded station. Completion of the call is detected by the line current detector 30 which causes the CPU 34 to deenergize the off hook relay 36.

The control system 10 also allows for the use of the call transfer capability of the telephone service central office, in conjunction with the simulated call forwarding method described above.] If this call transfer capability is available, then the control system 10 may be set to forward calls as follows The ringing of the incoming call is detected by the ring detector 33 thereby causing CPU 34 to energize the off hook relay 36 to answer the incoming call. The CPU 34 then momentarily deenergizes the off hook relay 36 to flash the central office thereby placing the incoming call on temporary hold. The CPU 34 then dials the call forwarding number either through the dial pulse generator 50, or the dual tone multi-frequency generator 52. . . .

(Fuller, column 9, lines 36-68). Therefore, what was cited in Fuller, is different from the recitations of claim 5, because what was cited in Fuller at column 9, lines 36-68 is silent as to responding to a "first service announcement"; thus, for at least these additional reasons, claim 5 distinguishes over the reference to Fuller.

In addition, in regard to claim 6, it was alleged in the Office Action that "Fuller teaches the use of a callback feature (see col. 7, lines 11-30)" (Office Action, page 5, lines 3-4).

Claim 6 recites "in response to the destination number being busy and in response to a prompt from the caller, activating a call-back service, thereby enabling the caller to **communicate with the destination number via the home plan at the home plan rate** in response to the destination number not being busy" (claim 6, lines 2-5, emphasis added). One of the call forwarding recitations in claim 6 includes communicating "with the destination number via the home plan at the home plan rate" (claim 6, line 4).

What was cited in Fuller (column 7, lines 11-30) as allegedly showing the recitations of claim 6, is silent as to communicating "with the destination number via the home plan at the home plan rate" (as recited in claim 6, line 4). Thus, for at least this additional reason, claim 6 distinguishes over the reference to Fuller.

In addition, and in regard to claims 8 and 9, it was alleged in the Office Action that the recitations of claims 8 and 9 are "obvious" (Office Action, page 5, lines 5-6 and lines 10-11). The Applicant respectfully traverses these allegations and demands that documentary evidence (i.e., either a patent or non-patent reference or an affidavit from the Examiner) be produced in support of the "obviousness" allegations. Absent such a showing, the burden of proof by the Examiner has not been met. Thus, for at least these additional reasons, claims 8 and 9 distinguish over the reference to Fuller. For all of the above additional reasons, claims 3-9 are allowable.

CONCLUSION

For at least the above reasons, claims 1-17 are patentable over the reference to Fuller and the assertions of obvious, inherent and well known in the art evidence cited in the Office Action, taken individually or in combination.

In view of the foregoing it is respectfully submitted that the application is in condition for allowance. Accordingly, it is respectfully requested that the application be allowed and a Notice of Allowance issued. If the Examiner believes that a telephone conference with Applicant's attorneys would be advantageous to the disposition of this case, the Examiner is cordially requested to telephone the undersigned.

If there are any additional charges or fees due in connection with this response or otherwise in connection with this application, Applicant's attorney hereby authorizes that such charges and fees be charged to Deposit Account 06-1130.

Respectfully submitted,

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